

ESTTA Tracking number: **ESTTA335078**

Filing date: **03/02/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92051801
Party	Defendant Tub Productions, LLC
Correspondence Address	Joseph Konieczny Ryder, Lu, Mazzeo & Konieczny LLC P.O. Box 387 Conshohocken, PA 19428-0387 UNITED STATES
Submission	Answer
Filer's Name	Kenneth R. DeRosa
Filer's e-mail	susiep@rudolerlaw.com, kend@rudolerlaw.com
Signature	/kenneth r. derosa/
Date	03/02/2010
Attachments	AnswertoPetitionTUB.pdf (4 pages)(28139 bytes)

By: Kenneth R. DeRosa
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TINY TURTLE LEARNING CENTER	:	UNITED STATES PATENT AND TRADEMARK OFFICE
	:	BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
	:	Cancellation No. 92051801
Petitioner,	:	ESTTA Tracking No. ESTTA319781
v.	:	
TUB PRODUCTIONS, LLC	:	
Registrant.	:	

Registrant, Tub Productions, LLC (“Registrant”) hereby answers the Petition for Cancellation (“Petition”) filed by Tiny Turtles Learning Center (“Petitioner”) as follows:

1. With regard to the Petition for Cancellation, Registrant denies Petitioner's allegation that it has been and will continue to be damaged by U.S. Registration No. 2,954,326.
2. Registrant admits that Petitioner has filed the instant Petition to Cancel and otherwise denies the remaining allegations in the introductory paragraph.
3. Registrant admits the allegations that Petitioner is listed as the applicant for intent-to-use application Serial No. 77/7807, 553 for the mark TINY TURTLE, and affirmatively avers that such application has been refused by the PTO.

4. Registrant denies Grounds for Cancellation for abandonment under Trademark Action Section 14.

FIRST AFFIRMATIVE DEFENSE

5. Petitioners' Petition to Cancel fails to state any claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

6. Petitioner's claims are barred by the doctrines of waiver, laches, and estoppels.

THIRD AFFIRMATIVE DEFENSE

7. Petitioner lacks standing to initiate the cancellation proceeding, as Petitioner does not have any rights in and to the mark TINY TURTLE, has not made any use of the mark TINY TURTLE, and/or did not and/or does not now have a bona fide intent to use the mark TINY TURTLE in commerce.

FOURTH AFFIRMATIVE DEFENSE

8. Petitioner's claims are barred, in whole or in part, because the Petition fails to state a claim upon which relief can be granted.

FIFTH AFFIRMATIVE DEFENSE

9. Petitioners claims are barred, in whole or in part, because Petitioner has not and will not suffer any injury or damage from U.S. Registration No. 2,954,326 or from its continued registration.

SIXTH AFFIRMATIVE DEFENSE

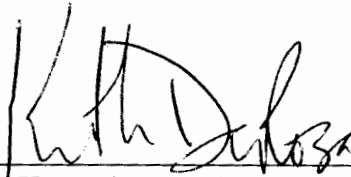
10. Petitioner's claims are barred, in whole or in part, because Petitioner does not have standing.

SEVENTH AFFIRMATIVE DEFENSE

12. Petitioner's claims are barred, in whole or in part, by the doctrine of unclean hands.

WHEREFORE, Registrant respectfully requests that the Board dismiss this cancellation proceeding in its entirety.

By: _____



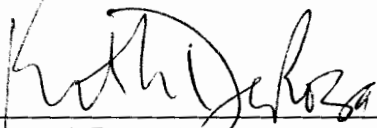
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CERTIFICATE OF SERVICE

I, Kenneth R. DeRosa, hereby certify that the attached ANSWER TO PETITION FOR CANCELLATION was served on this 2nd day of March, 2010, via first class mail, postage pre-paid, upon the following at the address of record:

Diana Desa
Tiny Turtle Learning Center
39 Coddington Avenue
North Plainfield, NJ 07060-4028


Kenneth R. DeRosa

Dated: March 2, 2010